



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

August 27, 2008

SUBJECT: **2008-0757:** Application for a property located at **1627 Edmonton Avenue** (near Helena Dr.) in an R-1/S (Low Density Residential/Single Story) Zoning District. RZ

Motion Use Permit to allow an approximately 9' tall fence with retaining wall in the reducible front yard.

REPORT IN BRIEF

Existing Site Conditions Single-family residential

Surrounding Land Uses

North Single-family residential

South Single-family residential

East Single-family residential

West Single-family residential

Issues Single-family residential

Environmental Status A Class 3 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Approve with conditions



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Residential Low Density	Same	Residential Low Density
Zoning District	R-1/S	Same	R-1/S
Lot Size (s.f.)	7,584	Same	8,000 min.
Gross Floor Area (s.f.)	2,362	Same	3,413 max. without PC Review
Floor Area Ratio (FAR)	31.1%	Same	45%
Fence (Wood fence + retaining wall)			
Height	8' measured from curb (6' measured from interior grade)	8' measured from curb (6' measured from interior grade)	> 7' requires a Use Permit
Left Side (Edmonton Ave.) Setback	4'-6" (5' from back edge of sidewalk)	0' (6" from back edge of sidewalk)	Per UP
Front Setback	22'-9" (23'-3" from back edge of sidewalk)	20'	N/A

Description of Proposed Project

The applicant proposes to construct a new 8' tall fence, as measured from the top of the nearest public curb, in the reducible front yard along the east property line fronting Edmonton Avenue. The existing fence is 8' tall and is set back 5' from the back edge of the sidewalk on the east side of the house, and 23'-3" from the back edge of the sidewalk at the front of the home. There is also an existing 2' tall retaining wall in the front yard. The applicant proposes to extend the fence closer to the sidewalk for privacy, security and to gain additional usable open space. The proposed fence would be comprised of approximately 6' of wood on top of a 2' tall retaining wall for a total fence structure height of 8'.

A Use Permit is required for fences in the reducible front yard that exceed 7' in height. The height of fences in the reducible front yard is measured from the nearest public curb. Although the portion of the fence at the front of the home will also be relocated, it will not be within the required front yard setback.

Background

Previous Actions on the Site: The home was built in 1958. A building permit for a second-story addition was issued and finalized in 1986. The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
2007-1048	Permanent status for a Single-Story Combining District for 54 properties in Tract 1910	City Council/ Approved	01/29/2008
2001-0265	Application to rezone 54 properties of Tract 1910 from R-1(Low Density Residential) to R-1/S (Low Density Residential/ Single Story Combining District); to expire in 7 years	City Council/ Approved	07/31/2001

Environmental Review

A Class 3 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 3 Categorical Exemptions include construction of appurtenant structures including garages, carports, patios, swimming pools and fences.

Use Permit

Site Layout: The subject site is located at the southeast corner of the northernmost cul-de-sac on Edmonton Avenue. The existing single-family home faces the cul-de-sac. There is about a 2' difference in grade from the public sidewalk along Edmonton Avenue. This grade difference is typical of properties within the neighborhood.

Fence Design and Location: The applicant is proposing to construct an 8' tall fence structure that would be comprised of approximately 6' of solid wood on top of a 2' tall stone block retaining wall. The proposed fence would be 6" from the back edge of the sidewalk on the east side of the property (see Attachment C). There is about a 2' difference in grade from the public sidewalk to the level of the yard and home, so the fence would have an interior height (measured from the level of the enclosed yard) of 6'.

The specific type of material to be used for the retaining wall was not specified by the applicant. Staff recommends the use of split face concrete blocks, or other material that is residential in character.

The original fence proposal appeared to have extended into the 40' corner vision triangle, but the applicant has redesigned the project so the entire fence is located outside the required vision triangle area. Because of the irregular shape of the lot, staff recommends a condition of approval that would require the applicant to submit a survey of the property by a licensed surveyor or civil engineer if the applicant were to propose to construct the fence closer than where the existing fence is located to the northeast corner of the property.

Compliance with Development Standards/Guidelines: Fences greater than 7' tall in the reducible front yard require a Use Permit. A building permit is also required for fences constructed on top of a retaining wall, regardless of the fence height.

Staff finds the fence, as currently designed, is not consistent with current development standards and guidelines. Sunnyvale's Single Family Home Design Techniques state the following:

3.11. G – Side fencing may be solid wood boards, but open lattice work segments at the top of the wall are softer in appearance and encouraged. For side property lines abutting a public street, low fencing is encouraged. However, when privacy is at issue, fences should be constructed of wood up to a maximum height of six feet with at least the top twelve inches constructed of wood lattice to soften the visual appearance of the fence top.

The proposed 8' tall fence consisting of 2' of retaining wall and 6' solid wood on top is inconsistent with the Design Techniques' recommendation of 6' total height with at least the top 12" constructed of wood lattice.

The Design Techniques encourage low, open fencing consistent with a residential neighborhood atmosphere. The subject property, however, has a grade change from the sidewalk to the property which would make a 6' total height only 4' inside the fence. The greatest impact of fence is because it rises to 8' near the edge of the sidewalk, which could give the street the walled-in feeling. This can be mitigated by setting it back an appropriate distance from the public sidewalk and planting landscaping in front of the fence to soften its appearance to avoid an imposing, "walled-in" feeling. If set back, with the addition of landscaping at the front of the fence to soften the visual impact of the fence, the fence would be consistent with the guidelines. If the project is approved, staff recommends a condition to require the applicant to set back the whole proposed structure 4' from the back edge of the sidewalk and to require landscaping to be installed in the area between the sidewalk and the fence structure.

A property located at 1602 Edmonton Avenue was issued a Use Permit for a 9' tall fence within the reducible front yard, similar in design to what the applicant is proposing. The Use Permit was issued in 1999. Although this fence

was permitted, it is not consistent with the current Single Family Home Design Techniques, which was adopted in 2003.

Expected Impact on the Surroundings: Staff believes that the proposed design of the fence would have a negative visual impact on the streetscape and neighborhood as it would create an imposing, "walled-in" feeling to passersby. Although other corner lots within the neighborhood have tall fences immediately adjacent to the sidewalk, many are not permitted and/or are inconsistent with the current Single Family Home Design Techniques.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Staff was contacted by two neighbors, one via email and one via telephone, who wanted clarification on the proposed project. Staff was able to explain the project to one of the neighbors, who then had concerns about the construction and longevity of the structure. The neighbor was assured that a building permit would be required for the construction of the retaining wall and fence, and the Building Safety Division would ensure that all applicable building codes are met. Staff was unable to contact the second neighbor to discuss the proposed project at the time of this staff report. Staff will provide any updates at the Administrative Hearing.

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Posted on the site• 14 notices mailed to property owners and residents adjacent to the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website

Conclusion

Discussion: The proposed fence is inconsistent with the Single Family Home Design Techniques because it is significantly taller than the recommended height of 6'. The proposed height, along with its location, would create a fortress-like appearance to the property, which is inconsistent with the residential character of the neighborhood. Recent permit approvals have allowed taller fences immediately adjacent to the public sidewalk that are 7' tall measured from the top of the nearest curb, and 6' tall or less measured from

the interior grade. Fences 7' tall or more have been required to have greater setbacks with landscaping installed between the fence and the sidewalk to soften visual impacts.

In this case, the subject site is about 2' higher in grade than the public sidewalk. If the Administrative Hearing Officer is able to make the required findings to approve the project, staff recommends conditions of approval requiring a modified design. Conditions of Approval #3A-3G require the applicant to set the structure back 4' from the sidewalk, install landscaping between the sidewalk and the structure and to modify the design to be more consistent with current standards and guidelines.

Findings and General Plan Goals: Staff was able to make the required Findings based on the justifications for the Use Permit. Findings and General Plan Goals are located in Attachment A.

Conditions of Approval: Conditions of Approval are located in Attachment B.

Alternatives

1. Approve the Use Permit with the attached conditions.
2. Approve the Use Permit with modified conditions of approval.
3. Deny the request for a Use Permit.

Recommendation

Alternative 1

Prepared by:



Rosemarie Zulueta
Project Planner

Reviewed by:



Andrew Miner
Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Use Permit Justifications from the Applicant

Recommended Findings - Use Permit

Goals and Policies that relate to this project are:

Land Use and Transportation Statement

Action Statement N1.1.1 – Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.

Goal C1 – Preserve and enhance an attractive community, with a positive image and a sense of place that consists of distinctive neighborhoods, pockets of interest, and human scaled development.

Single Family Home Design Techniques

3.11.G – Side fencing may be solid wood boards, but open lattice work segments at the top of the wall are softer in appearance and encouraged. For side property lines abutting a public street, low fencing is encouraged. However, when privacy is at issue, fences should be constructed of wood up to a maximum height of six feet with at least the top twelve inches constructed of wood lattice to soften the visual appearance of the fence top.

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project. *(Finding met with conditions.)*

The proposed fence is not consistent with the Single Family Home Design Techniques, which encourage the use of open fencing with a height of no more than six feet in the reducible front yard. With the recommended conditions to install landscaping and set the proposed fence back, the fence will maintain the scale and appearance of the residential neighborhood.

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties. *(Finding met with conditions.)*

The proposed height and location of the fence and the lack of landscaping would result in an imposing, “walled-in” feeling, which would have a negative impact on the streetscape and the surrounding properties. Staff has recommended conditions of approval to mitigate this potential impact and at the same time provide the security and privacy that the applicant desires.

Recommended Conditions of Approval - Use Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. Project shall be in conformance with the approved plans. Minor changes may be approved by the Director of Community Development. Major changes may be approved at a public hearing.
- B. These Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project.
- C. The Use Permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.
- D. The Use Permit for the use shall expire if the use is discontinued for a period of one year or more.

2. OBTAIN OTHER PERMITS

- A. Obtain Building Permits from the Building Safety Division as required.

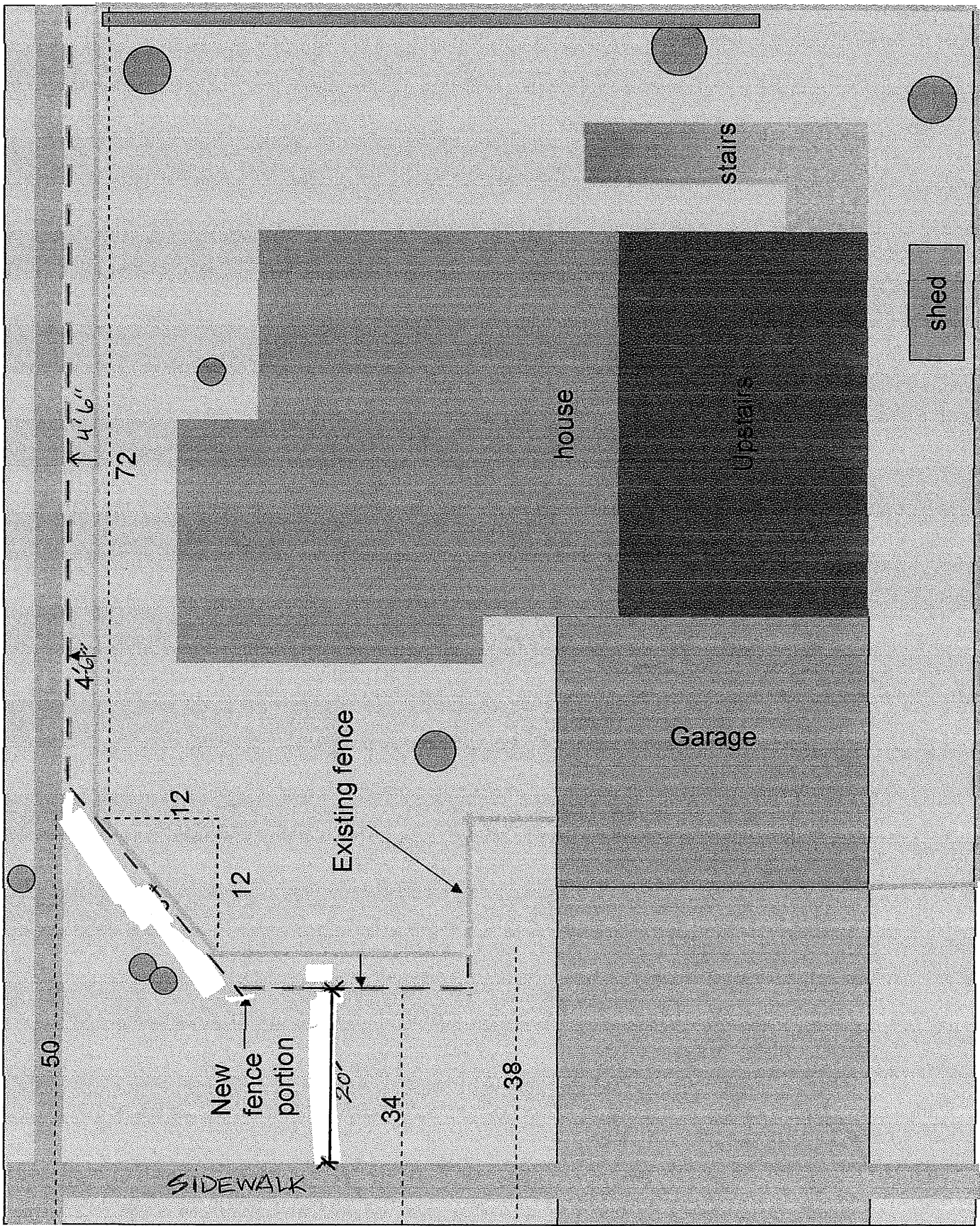
3. FENCES

- A. The proposed fence structure shall not exceed 8' in height as measured from the top of the nearest curb (2' tall retaining wall with 6' wood fence, or variation thereof) shall be set back 4' from the back edge of the sidewalk.
- B. The wood portion of the structure (fence) shall consist of at least 1' of wood lattice at the top.
- C. Trees, bushes, flowers, vines, or other landscaping shall be planted and maintained in the planting area between the structure and the back edge of the sidewalk along Edmonton Avenue.
- D. The proposed fence structure shall not be located within the 40' corner vision triangle. Unless a survey by a licensed surveyor or civil engineer that shows that the angled northeast corner portion would be outside the required corner vision triangle and is submitted to the

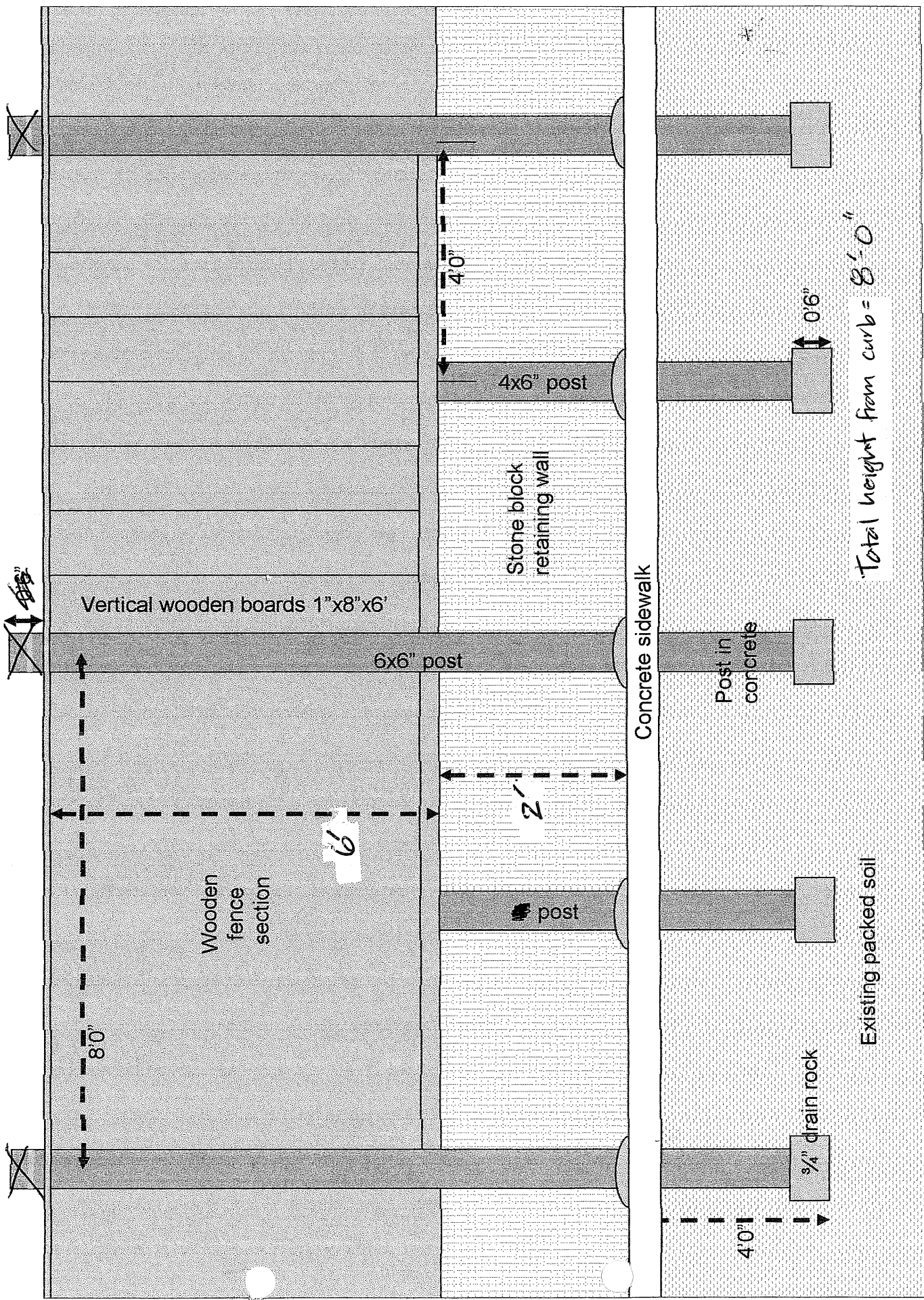
Director of Community Development for review and approval, the new structure shall not extend closer to the northeast corner of the property from the line of the existing fence.

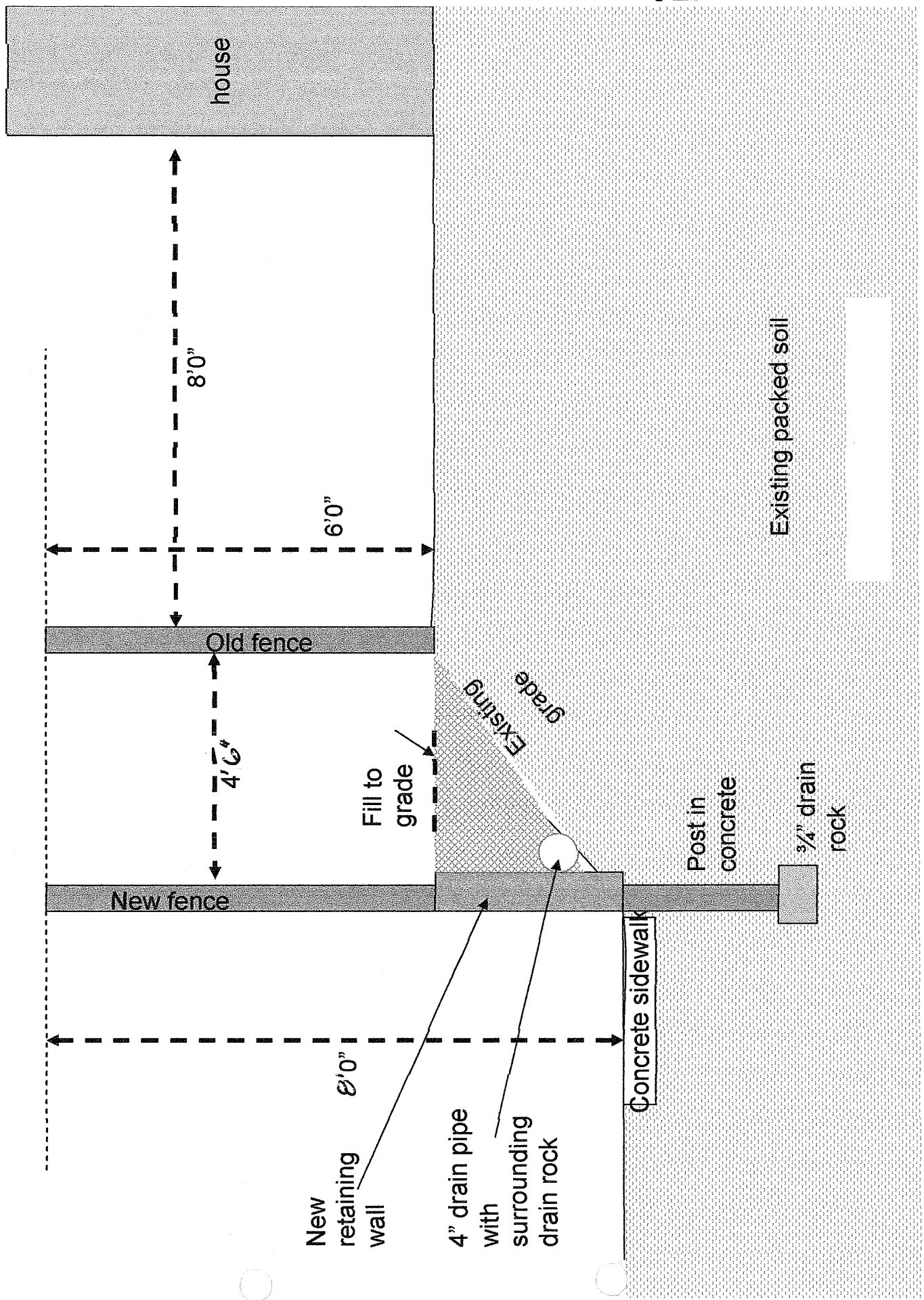
- E. No new fences, shrubs, bushes, hedges or other objects within the vision triangle shall exceed 3' in height.
- F. The retaining wall shall be made of split face concrete blocks, or other material that is residential in character.
- G. Landscaping and final fence design shall be reviewed and approved by the Director of Community Development prior to construction.

← Z



Front of house







USE PERMIT/SPECIAL DEVELOPMENT PERMIT JUSTIFICATIONS

One of the two following findings must be made in order to approve a Use Permit or Special Development Permit application.

The Sunnyvale Municipal code states that at least one of the following two justifications must be met before granting the Use Permit or Special Development Permit. Please provide us information on how your project meets **at least one** of the following criteria.

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project ...

OR

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties as ...

The proposed fence will not alter the visibility requirements of vehicles at the corner. Furthermore, a new fence will improve the appearance of the house and the area as a whole.

Adjacent properties will continue to see the same view beyond the property as the overall height of the fence will not change from the existing fence.

If you need assistance in answering either of these justifications, contact the Planning Division staff at the One-Stop Permit Center.